

Sec. 11.3055. FINANCIAL SERVICES STUDY. (a) The finance commission ~~may~~ *shall* assign the banking commissioner, savings and loan commissioner, or consumer credit commissioner to conduct research on:

(1) the availability, quality, and prices of financial services, including lending and depository services, offered in this state to agricultural businesses, small businesses, and individual consumers in this state; and

(2) the practices of business entities in this state that provide financial services to agricultural businesses, small businesses, and individual consumers in this state.

(b) The banking commissioner, savings and loan commissioner, or consumer credit commissioner may:

(1) apply for and receive public and private grants and gifts to conduct the research authorized by this section; and

(2) contract with public and private entities to carry out studies and analyses under this section.

SECTION 2.04. TEXAS DEPARTMENT OF INSURANCE. Section 802.055, Insurance Code, as effective June 1, 2003, is amended to read as follows:

Sec. 802.055. COSTS PAID BY INSURANCE COMPANY. ~~[(a)]~~ An insurance company shall pay *all* ~~the~~ costs of preparing and furnishing to the National Association of Insurance Commissioners the information required under Section 802.052, *including any related filing fees.*

~~[(b) Except as provided by Subsection (a), costs relating to providing the information required under Section 802.052 may not be assessed against an insurance company.]~~

ARTICLE 3. EFFECTIVE DATE

SECTION 3.01. EFFECTIVE DATE. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2003.

Passed by the House on May 10, 2003: Yeas 131, Nays 0, 1 present, not voting; the House concurred in Senate amendments to H.B. No. 3378 on May 30, 2003: Yeas 142, Nays 0, 4 present, not voting; passed by the Senate, with amendments, on May 28, 2003: Yeas 31, Nays 0.

Approved June 16, 2003.

Effective June 16, 2003.

CHAPTER 212

S.B. No. 266

AN ACT

relating to the continuation and functions of the Board of Law Examiners and to eligibility for taking the examination for a license to practice law.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Subsections (b) and (c), Section 82.001, Government Code, are amended to read as follows:

(b) The supreme court ~~biennially~~ shall appoint the members of the board for *staggered six-year* ~~two-year~~ terms, *with the terms of one-third of the members expiring* ~~that expire~~ August 31 of each odd-numbered year. A member is subject to removal by the supreme court as provided by Section 82.0021.

(c) Appointments *to the board* shall be made without regard to *the* race, color, disability, ~~creed,~~ sex, religion, age, or national origin *of the appointees.*

SECTION 2. Section 82.002, Government Code, is amended to read as follows:

Sec. 82.002. CONFLICT OF INTEREST. (a) *In this section, "Texas trade association" means a cooperative and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.*

(b) A person may not be a member of the Board of Law Examiners and may not be a board employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), and its subsequent amendments, if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of board interest; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of board interest.

(c) A person may not be a member of the board or act as the general counsel to the board if the person is required to register as a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a profession related to the operation of the board.

(d) A member of the board [Board of Law Examiners] who has a financial interest, other than a remote financial interest, in a decision pending before the board is disqualified from participating in the decision.

~~*[(b) A member or employee of the board may not be an employee or paid consultant of a trade association in the field of board interest.*~~

~~*[(c) A person who is required to register as a lobbyist under Chapter 305 may not act as general counsel to the board or serve as a member of the board.]*~~

SECTION 3. Subsections (a) and (c), Section 82.0021, Government Code, are amended to read as follows:

(a) It is a ground for removal from the Board of Law Examiners *that* ~~if~~ a member:

(1) does not have, at the time of *taking office* ~~[appointment]~~, the qualifications required by Section 82.001;

(2) does not maintain during service on the board the qualifications required by Section 82.001;

(3) *is ineligible for membership under* ~~[violates a prohibition established by]~~ Section 82.002;

(4) cannot, *because of illness or disability*, discharge the member's duties for a substantial part of the member's term ~~[for which the member is appointed because of illness or disability];~~

(5) is absent from more than half of the regularly scheduled board meetings that the member is eligible to attend *during* ~~[in]~~ a calendar year *without an excuse approved* ~~[unless the absence is excused]~~ by a majority vote of the board;

(6) is incompetent; or

(7) is inattentive to the member's duties.

(c) If the executive director of the board has knowledge that a potential ground for removal exists, the executive director shall notify the *presiding officer* ~~[chairman]~~ of the board of the potential ground. The *presiding officer* ~~[chairman]~~ shall then notify the supreme court that a potential ground for removal exists. *If the potential ground for removal involves the presiding officer, the executive director shall notify the next highest ranking officer of the board, who shall then notify the supreme court that a potential ground for removal exists.*

SECTION 4. Section 82.003, Government Code, is amended by amending Subsections (a) and (c) and adding Subsections (d) and (e) to read as follows:

(a) Except as provided by *this section* ~~[Subsections (b) and (c)]~~, the Board of Law Examiners is subject to Chapter 552~~[,]~~ and Chapter 551.

(c) *Board deliberations, hearings, and determinations* ~~[Deliberations]~~ relating to moral character and fitness of an applicant *shall* ~~[may]~~ be closed to the public, and records relating to these subjects are *confidential* ~~[exempt from disclosure]~~. On the written request of an applicant, however, the applicant is entitled to:

(1) *have the applicant's character and fitness hearing open to persons designated by the applicant; or*

(2) *have disclosed to the applicant records relating to the applicant's own moral character and fitness unless the person who supplied the information has requested that it not be disclosed.*

(d) The board shall not inquire of a person who supplies information *relating to an applicant's moral character and fitness* whether the person objects to disclosure nor inform the person of the right to object.

(e) *Board deliberations, hearings, and determinations relating to a request by an applicant who has a disability for testing accommodations under Section 82.0272 on the bar examination shall be closed to the public, and records relating to that subject are confidential.*

SECTION 5. Section 82.006, Government Code, is amended to read as follows:

Sec. 82.006. SUNSET PROVISION. The Board of Law Examiners is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished September 1, 2015 ~~[2003]~~.

SECTION 6. Subchapter A, Chapter 82, Government Code, is amended by amending Section 82.007 and adding Sections 82.0071, 82.0072, and 82.0073 to read as follows:

Sec. 82.007. *CAREER LADDER; ANNUAL PERFORMANCE EVALUATIONS* ~~[PERSONNEL]~~. (a) The executive director of the Board of Law Examiners or the executive director's designee shall develop an intraagency career ladder program. The program shall require intraagency postings of all nonentry level positions concurrently with any public posting.

(b) The executive director or the executive director's designee shall develop a system of annual performance evaluations. All merit pay for board employees must be based on the system established under this subsection.

~~[(c) The board shall provide to its members and employees, as often as necessary, information regarding their qualifications for office or employment under this subchapter and their responsibilities under applicable laws relating to standards of conduct for state officers or employees.]~~

~~[(d) The board shall develop and implement policies that clearly define the respective responsibilities of the board and the staff of the board.]~~

Sec. 82.0071. *EQUAL EMPLOYMENT OPPORTUNITY POLICY*. (a) ~~[(e)]~~ The executive director of the Board of Law Examiners or the executive director's designee shall prepare and maintain a written policy statement *that implements* ~~[to assure implementation of]~~ a program of equal employment opportunity *to ensure that all personnel decisions* ~~[under which all personnel transactions]~~ are made without regard to race, color, *disability* ~~[handicap]~~, sex, religion, age, or national origin.

(b) The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, ~~[appointment]~~, training, and promotion of personnel, *that show the intent of the board to avoid the unlawful employment practices described by Chapter 21, Labor Code; and*

(2) *an analysis of the extent to which the composition of the board's personnel is in accordance with state and federal law and a description of reasonable methods to achieve compliance with state and federal law.*

(c) *The policy statement must be:*

(1) *updated annually;*

(2) *reviewed by the Commission on Human Rights for compliance with Subsection (b)(1); and*

(3) filed with the governor's office and the supreme court[;

~~[(2) a comprehensive analysis of the board's work force that meets federal and state guidelines;~~

~~[(3) procedures by which a determination can be made of significant underutilization in the board's work force of all persons for whom federal or state guidelines encourage a more equitable balance; and~~

~~[(4) reasonable methods to appropriately address those areas of significant underutilization.~~

~~[(f) A policy statement prepared under Subsection (e) must cover an annual period, be updated at least annually, and be filed with the supreme court and the governor's office.~~

~~[(g) The governor's office shall deliver a biennial report to the legislature based on the information received under Subsection (f). The report may be made separately or as a part of other biennial reports made to the legislature].~~

Sec. 82.0072. STANDARDS OF CONDUCT. The executive director of the Board of Law Examiners or the executive director's designee shall provide to members of the board and to board employees, as often as necessary, information regarding the requirements for office or employment under this chapter, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state officers or employees.

Sec. 82.0073. SEPARATION OF RESPONSIBILITIES. The Board of Law Examiners shall develop and implement policies that clearly separate the policymaking responsibilities of the board and the management responsibilities of the executive director and the staff of the board.

SECTION 7. Subchapter A, Chapter 82, Government Code, is amended by adding Sections 82.010 through 82.013 to read as follows:

Sec. 82.010. TRAINING PROGRAM REQUIRED. (a) A person who is appointed to and qualifies for office as a member of the Board of Law Examiners may not vote, deliberate, or be counted as a member in attendance at a meeting of the board until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

- (1) the legislation that created the board;*
- (2) the programs operated by the board;*
- (3) the role and functions of the board;*
- (4) the rules of the board, with an emphasis on the rules that relate to disciplinary and investigatory authority;*
- (5) the current budget for the board;*
- (6) the results of the most recent formal audit of the board;*
- (7) the requirements of:*
 - (A) the open meetings law, Chapter 551;*
 - (B) the public information law, Chapter 552;*
 - (C) the administrative procedure law, Chapter 2001; and*
 - (D) other laws relating to public officials, including conflict-of-interest laws; and*
- (8) any applicable ethics policies adopted by the board or the Texas Ethics Commission.*

Sec. 82.011. WRITTEN COMPLAINTS. (a) The Board of Law Examiners shall maintain a file on each written complaint filed with the board. The file must include:

- (1) the name of the person who filed the complaint;*
- (2) the date the complaint was received by the board;*
- (3) the subject matter of the complaint;*
- (4) the name of each person contacted in relation to the complaint;*
- (5) a summary of the results of the review or investigation of the complaint; and*

(6) *an explanation of the reason the file was closed, if the board closed the file without taking action other than to investigate the complaint.*

(b) *The board shall provide to the person filing the complaint and to each person who is a subject of the complaint a copy of the board's policies and procedures relating to complaint investigation and resolution.*

(c) *The board, at least quarterly until final disposition of the complaint, shall notify the person filing the complaint and each person who is a subject of the complaint of the status of the investigation unless the notice would jeopardize an undercover investigation.*

Sec. 82.012. STATE EMPLOYEE INCENTIVE PROGRAM. *The executive director of the Board of Law Examiners or the executive director's designee shall provide to board employees information and training on the benefits and methods of participation in the state employee incentive program.*

Sec. 82.013. EFFECTIVE USE OF TECHNOLOGY. *The Board of Law Examiners shall develop and implement a policy requiring the executive director and board employees to research and propose appropriate technological solutions to improve the board's ability to perform its functions. The technological solutions must:*

(1) *ensure that the public is able to easily find information about the board on the Internet;*

(2) *ensure that persons who want to use the board's services are able to:*

(A) *interact with the board through the Internet; and*

(B) *access any service that can be provided effectively through the Internet; and*

(3) *be cost-effective and developed through the board's planning processes.*

SECTION 8. Subchapter B, Chapter 82, Government Code, is amended by adding Section 82.0242 to read as follows:

Sec. 82.0242. LAW STUDY REQUIREMENT FOR CERTAIN STUDENTS. (a) *Notwithstanding any other provision of law, the law study requirement for taking the bar examination is satisfied and a person is eligible to take the bar examination if the person has pursued the study of law at an approved law school or schools and has satisfied all requirements for graduation with a J.D. degree or its equivalent, other than completing the final 12 semester hours or the equivalent of 12 semester hours in quarter hours required for graduation.*

(b) *Any person qualifying to take the bar examination under Subsection (a) may not be licensed to practice law until graduation or until satisfying all requirements for graduation.*

(c) *If a person described by Subsection (a) has not graduated with a J.D. degree or satisfied all requirements for graduation within two years from the date that the person satisfactorily completes all parts of the bar examination, the person's examination scores are void.*

(d) *This section expires September 1, 2004.*

SECTION 9. Section 82.027, Government Code, is amended by adding Subsections (c) and (d) to read as follows:

(c) *On a showing of good cause or to prevent hardship, the board may permit an applicant to file an application with the board not later than the 60th day after the deadline prescribed by Subsection (a) on payment of applicable late fees.*

(d) *The filing deadlines and late fees do not apply to an applicant who failed the preceding bar examination. Any such applicant may take the next examination administered on filing an application with the board and paying the required examination fees not later than the date established by supreme court rule.*

SECTION 10. Subchapter B, Chapter 82, Government Code, is amended by adding Sections 82.0272, 82.029, and 82.0291 to read as follows:

Sec. 82.0272. TESTING ACCOMMODATIONS FOR APPLICANTS WITH DISABILITIES. *An applicant who has a physical, mental, or developmental disability may request that the Board of Law Examiners provide testing accommodations on the bar examination.*

An applicant whose request is denied may appeal the decision to a committee appointed by, and composed of three or more members of, the board.

Sec. 82.029. RELEASE OF BAR EXAMINATION RESULTS. (a) On request of a law school that is conducting research on the achievement of the law school's students or graduates on the Texas bar examination, the Board of Law Examiners shall provide the law school with information concerning the results of a bar examination and the achievement of particular applicants on the examination, including examination results disaggregated by section or portion of the examination and any relevant statistics related to the results of the examination.

(b) An applicant may request that the board not release the applicant's identity to a law school that requests information under Subsection (a). The board shall grant the applicant's request if the applicant:

(1) sends the request to the board by certified mail or a comparable mailing method that provides proof of delivery; and

(2) makes the request before the applicant takes the bar examination.

(c) A law school that receives information from the board under Subsection (a) is subject to any restriction on the release of the information under federal or state law.

(d) Notwithstanding any other law, information that the board provides to a law school under Subsection (a) is confidential and may not be disclosed under any law related to open records or public information.

Sec. 82.0291. REPORT ON APPLICANTS WHO FAIL EXAMINATION. (a) The Board of Law Examiners shall compile a report indicating the number of applicants who fail the July 2004 bar examination. The data shall be aggregated by gender, ethnicity, and race. The report shall also include an analysis of the identifiable causes of failure and recommendations, if any, to address the causes of failure. The board shall deliver the report to the legislature not later than December 31, 2004.

(b) This section expires January 1, 2005.

SECTION 11. Section 82.030, Government Code, is amended by amending Subsection (f) and adding Subsection (g) to read as follows:

(f) In this section, "treatment[":

~~[(1) "Chemical dependency" has the meaning assigned by Section 82.038.~~

~~[(2) "Treatment] facility" has the meaning assigned by Section 462.001, Health and Safety Code.~~

(g) *Subject to supreme court adoption by rule, the board shall define "chemical dependency."*

SECTION 12. Section 82.038, Government Code, is amended by amending Subsection (i) and adding Subsection (j) to read as follows:

(i) On request, the board in coordination with the State Bar of Texas shall inform a member of the public whether a particular person holds a probationary license. Any information that forms the basis for the issuance of the probationary license is confidential.

(j) In this section:

(1) "Chemical dependency" has the meaning provided by supreme court rule adopted under Section 82.030 [means:

~~[(A) the abuse of alcohol or a controlled substance;~~

~~[(B) a pathological use of alcohol or a controlled substance that chronically impairs the applicant's ability to competently provide legal advice or services; or~~

~~[(C) a physiological or physical dependence on alcohol or a controlled substance].~~

(2) "Controlled substance," "treatment facility," and "treatment" have the meanings assigned by Section 462.001, Health and Safety Code.

SECTION 13. Sections 82.025, 82.031, and 82.032, Government Code, are repealed.

SECTION 14. In appointing the members of the Board of Law Examiners for terms beginning September 1, 2003, the Supreme Court of Texas shall appoint three persons to

terms expiring August 31, 2005, three persons to terms expiring August 31, 2007, and three persons to terms expiring August 31, 2009.

SECTION 15. Subsection (i), Section 82.038, Government Code, as amended by this Act, applies only to a probationary license to practice law issued on or after September 1, 2003.

SECTION 16. This Act takes effect September 1, 2003.

Passed the Senate on April 15, 2003, by a viva-voce vote; the Senate concurred in House amendments on May 31, 2003, by a viva-voce vote; passed the House, with amendments, on May 28, 2003, by a non-record vote.

Approved June 16, 2003.

Effective September 1, 2003.

CHAPTER 213

S.B. No. 1173

AN ACT

relating to prescription drug benefits under the group health benefit programs for certain governmental employees and retired employees.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 1551.205, Insurance Code, as effective June 1, 2003, is amended to read as follows:

Sec. 1551.205. **LIMITATIONS.** The board of trustees may not contract for or provide a coverage plan that:

- (1) excludes or limits coverage or services for acquired immune deficiency syndrome, as defined by the Centers for Disease Control and Prevention of the United States Public Health Service, or human immunodeficiency virus infection; ~~[or]~~
- (2) provides coverage for serious mental illness that is less extensive than the coverage provided for any physical illness; *or*
- (3) *may provide coverage for prescription drugs to assist in stopping smoking at a lower benefit level than is provided for other prescription drugs.*

SECTION 2. Subchapter E, Chapter 1551, Insurance Code, as effective June 1, 2003, is amended by adding Sections 1551.218 and 1551.219 to read as follows:

Sec. 1551.218. **PRIOR AUTHORIZATION FOR CERTAIN DRUGS.** (a) *In this section, "drug formulary" means a list of drugs preferred for use and eligible for coverage under a health benefit plan.*

(b) *A health benefit plan provided under this chapter that uses a drug formulary in providing a prescription drug benefit must require prior authorization for coverage of the following categories of prescribed drugs if the specific drug prescribed is not included in the formulary:*

- (1) *a gastrointestinal drug;*
- (2) *a cholesterol-lowering drug;*
- (3) *an anti-inflammatory drug;*
- (4) *an antihistamine drug; and*
- (5) *an antidepressant drug.*

(c) *Every six months the board of trustees shall submit to the comptroller and Legislative Budget Board a report regarding any cost savings achieved in the group benefits program through implementation of the prior authorization requirement of this section. A report must cover the previous six-month period.*

Sec. 1551.219. **MAIL ORDER REQUIREMENT FOR PRESCRIPTION DRUG COVERAGE PROHIBITED.** *The board of trustees or a health benefit plan under this chapter that*